AM2357
LB830
MHF-03/17/2008

AMENDMENTS TO LB 830

Introduced by Health and Human Services.

1. Strike the original sections and insert the following new sections:

Section 1. Section 68-901, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-901 Sections 68-901 to 68-949 and sections 2 to 8 of this act shall be known and may be cited as the Medical Assistance Act.

Sec. 2. Sections 2 to 8 of this act shall be known and may be cited as the Medicaid Prescription Drug Act.

Sec. 3. The purpose of the Medicaid Prescription Drug Act is to provide appropriate pharmaceutical care to medicaid recipients in a cost-effective manner by requiring the establishment of a preferred drug list and other activities as prescribed.

Sec. 4. For purposes of the Medicaid Prescription Drug Act:

(1) Labeler means a person or entity that repackages prescription drugs for retail sale and has a labeler code from the federal Food and Drug Administration under 21 C.F.R. 207.20, as such regulation existed on January 1, 2008;

(2) Manufacturer means a manufacturer of prescription drugs as defined in 42 U.S.C. 1396r-8(k)(5), as such section existed on January 1, 2008, including a subsidiary or affiliate of

such manufacturer;

(3) Multistate purchasing pool means an entity formed by an agreement between two or more states to negotiate for supplemental rebates on prescription drugs;

(4) Pharmacy benefit manager means a person or entity that negotiates prescription drug price and rebate arrangements with manufacturers or labelers;

(5) Preferred drug list means a list of prescription drugs that may be prescribed for medicaid recipients without prior authorization by the department; and

(6) Prescription drug has the definition found in section 38-2840.

Sec. 5. (1) The department shall establish and maintain a preferred drug list for the medical assistance program. The department shall establish a pharmaceutical and therapeutics committee to advise the department on all matters relating to the establishment and maintenance of such list.

(2) The pharmaceutical and therapeutics committee shall include at least fifteen but no more than twenty members. Except for public members, all members shall be practicing health care professionals with experience in serving medicaid recipients. No more than twenty-five percent of the committee shall be state employees.

(3) At least fifty percent of the committee shall be physicians, including physicians practicing in the areas of (a) family medicine, (b) internal medicine, (c) pediatrics, (d) cardiology, (e) psychiatry or neurology, (f) obstetrics or

gynecology, (g) endocrinology, and (h) oncology.

(4) Other members of the committee shall include, but not be limited to, (a) a hospital pharmacist, (b) a retail pharmacist, (c) a university professor of pharmacy or a person with a doctoral degree in pharmacology, and (d) at least two public members.

(5) Members of the committee shall submit conflict of interest disclosure statements to the department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure.

(6) The committee shall elect a chairperson and a vice chairperson from among its members. Members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(7) The department, in consultation with the committee, shall adopt and publish policies and procedures for the preferred drug list, including (a) guidelines for the presentation and review of drugs for inclusion on the preferred drug list, (b) the manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost effectiveness, (c) an appeals process for the resolution of disputes, and (d) such other policies and procedures as the department deems necessary and appropriate.

Sec. 6. (1) The department and the pharmaceutical and therapeutics committee shall consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, except that antidepressant, antipsychotic, and anticonvulsant prescription drugs shall not be subject to consideration for inclusion on the

preferred drug list.

(2)(a) The department shall include a prescription drug on the preferred drug list if the prescription drug is therapeutically equivalent to or superior to a prescription drug on the list and the net cost of the new prescription drug is equal to or less than the net cost of the listed drug, after consideration of applicable rebates or discounts negotiated by the department.

(b) If the department finds that two or more prescription drugs under consideration for inclusion on the preferred drug list are therapeutically equivalent, the department shall include the more cost-effective prescription drug or drugs on the preferred drug list.

(3) The department shall maintain an updated preferred drug list in electronic format and shall make the list available to the public on the department's Internet web site.

Sec. 7. (1) A health care provider may prescribe a prescription drug not on the preferred drug list to a medicaid recipient if (a) the prescription drug is medically necessary, (b)(i) the prescriber certifies that the preferred drug has not been effective, or with reasonable certainty is not expected to be effective, in treating the recipient's condition or (ii) the preferred drug causes or is reasonably expected to cause adverse or harmful reactions in the recipient, and (c) the department authorizes coverage for the prescription drug prior to the dispensing of the drug. The department shall respond to a prior authorization request no later than twenty-four hours after receiving such request.

(2) A health care provider may prescribe a prescription drug not on the preferred drug list to a medicaid recipient without prior authorization by the department if the recipient is already on a successful course of antidepressant, antipsychotic, or anticonvulsant medication or medication for human immunodeficiency virus, multiple sclerosis, epilepsy, cancer, or immunosuppressant therapy or the recipient has had a prior failure with a medication in the class of drugs from which the provider is seeking to prescribe.

Sec. 8. The department shall: (1) Enter into a multistate purchasing pool; (2) negotiate directly with manufacturers or labelers; or (3) contract with a pharmacy benefit manager for negotiated discounts or rebates for all prescription drugs under the medical assistance program in order to achieve the lowest available price for such drugs under such program.

Sec. 9. This act becomes operative on July 1, 2009.